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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,321	09/10/2003	Chikara Yamamoto	P23803	1870
7055	7590	11/30/2004	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C.			SCHWARTZ, JORDAN MARC	
1950 ROLAND CLARKE PLACE			ART UNIT	
RESTON, VA 20191			PAPER NUMBER	
			2873	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,321

Applicant(s)

YAMAMOTO, CHIKARA

Examiner

Jordan M. Schwartz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6 and 8-15 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/17/03, 4/2/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

Claim 5 is objected to for the following reason. Since the intended meaning could be determined from what is set forth in the specification, a 112 rejection has not been made but instead this lack of clarity issue is being raised in the following objection.

With respect to claim 5, the use of the parentheses within the claim creates a lack of clarity because it is not clear if what is set forth in the parentheses is intended to have patentable weight. As a suggestion, applicant may want to change "where W (mm)" to "where W in mm" (which is the assumed meaning) to provide additional clarity.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 8-10, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Obara patent number 6,186,627.

Obara reads on these claims by disclosing the limitations therein including the following: a spectacle lens (column 1, lines 6-16) comprising a central portion located at a middle section with average transmission power within the central portion being substantially constant (Figure 5, with the central portion has a substantially constant positive power); an upper portion with an average transmission power continuously changing from a lower end of the upper portion to a top end of the spectacle (Figure 5 from about $X=5$ to the top of the lens the power is continuously changing); a lower portion with an average transmission power continuously changing from a top end of the lower portion to a lower end of the spectacle (Figure 5 from about $X=-1$ to the bottom of the lens the power is continuously changing); the central portion configured for middle vision (column 1, lines 12-17, and column 1, line 65 to column 2, line 18); the lens configured with an asymmetrical aberration to the main meridian (Figure 6); the surface configured to have a non-umbilical region along the main meridian (Figure 6, uppermost portion of the lens). The surface shape i.e. the "form of the surface" within the upper and lower portion will inherently change above and below the center to provide the continuously changing power above and below the lens center. Obara further discloses the power in the vicinity of the center of the lens as positive (Figure 5). It is believed that at least one point along the main meridian in the lower portion will have a power in a direction parallel to the main meridian less than in a direction perpendicular to the main meridian and that the lens of Obara will inherently satisfy the condition of claim 14, this being reasonably based upon what is shown in Figure 5 as well as being based upon the similarity in structure between Obara and that of the claimed invention. Obara

further discloses the back surface changed to provide changes in the average transmission power of the lens (Figure 5 and column 7, lines 17-22).

Claims 1, 4-6, 8-10, 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Baudart et al patent number 6,318,859.

Baudart et al'859 reads on these claims by disclosing the limitations therein including the following: a spectacle lens (column 1, lines 6-24) comprising a central portion located at a middle section with average transmission power within the central portion being substantially constant (Figures 19 and 22, with the central portion has a substantially constant power); an upper portion with an average transmission power continuously changing from a lower end of the upper portion to a top end of the spectacle (Figures 19 and 22 such as in Figure 19 from about from $X=10$ to the top of the lens the power is continuously changing); a lower portion with an average transmission power continuously changing from a top end of the lower portion to a lower end of the spectacle (Figures 19 and 22 such as Figure 19 from about $X=0$ to the bottom of the lens the power is continuously changing); the central portion configured for middle vision (Figures 19 and 22, claim 1); satisfaction of the conditions of claims 5 and 6 (Figure 19 with W of approximately 10 mm); the lens configured with an asymmetrical aberration to the main meridian (see astigmatic Figures); the surface having a non-umbilical region along the main meridian (see astigmatic Figures). The surface shape i.e. the "form of the surface" within the upper and lower portion will inherently change above and below the center to provide the continuously changing power above and below the lens center. Baudart et al'859 further discloses the power in

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the vicinity of the center of the lens as positive (Figure 5 where $X = 0$). It is believed that at least one point along the main meridian in the lower portion will have a power in a direction parallel to the main meridian less than in a direction perpendicular to the main meridian and that the lens of Baudart et al'859 will inherently satisfy the condition of claim 14, this being reasonably based upon what is shown in Figure 22 as well as being based upon the similarity in structure between Baudart et al'859 and that of the claimed invention. Baudart et al'859 further discloses the back surface changed to provide changes in the average transmission power of the lens (column 17, line 58).

Claims 1, 4-5, 8-12, 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Shirayanagi publication number 2004/0008320.

Shirayanagi reads on these claims by disclosing the limitations therein including the following: a spectacle lens (abstract) comprising a central portion located at a middle section with average transmission power within the central portion being substantially constant (Figure 28, with the central portion from about $x=0$ to about $x=6$ having a substantially constant power); an upper portion with an average transmission power continuously changing from a lower end of the upper portion to a top end of the spectacle (Figure 28 from about from $X=6$ to the top of the lens the power is continuously changing); a lower portion with an average transmission power continuously changing from a top end of the lower portion to a lower end of the spectacle (Figure 28 from about $X=0$ to the bottom of the lens the power is continuously changing); the central portion can be configured for middle vision (paragraph 0003); satisfaction of the conditions of claim 5 (Figure 28 with W of approximately 6 mm); the

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lens configured with an asymmetrical aberration to the main meridian (see astigmatic Figures); the surface having a non-umbilical region along the main meridian (see astigmatic Figures). The surface shape i.e. the "form of the surface" within the upper and lower portion will inherently change above and below the center to provide the continuously changing power above and below the lens center. Shirayanagi further discloses the power in the vicinity of the center of the lens as negative (Figure 28 where $X = 3$). It is believed that at least one point along the main meridian in the upper portion will have a power in a direction parallel to the main meridian greater than in a direction perpendicular to the main meridian and that the lens of Shirayanagi will inherently satisfy the condition of claim 13, this being reasonably based upon what is shown in Figure 28 as well as being based upon the similarity in structure between Shirayanagi and that of the claimed invention. Shirayanagi further discloses the back surface changed to provide changes in the average transmission power of the lens (abstract).

Prior Art Citations

Baudart et al patent number 6,382,789 is being cited herein as another reference that would have read on a number of the above rejected claims (see specifically Figure 35), however, such rejections would have been repetitive.

Allowable Subject Matter

Claims 2-3 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: none of the prior art either alone or in combination disclose or teach of the claimed combination of limitations to warrant a rejection under 35 USC 102 or 103. Specifically, with reference to claims 2-3, none of the prior art either alone or in combination disclose or teach of the claimed spectacle lens, specifically including, as the distinguishing feature in combination with the other limitations, the claimed clear vision area whose horizontal size is configured to be the greatest in the central portion. Specifically, with reference to claim 7, none of the prior art either alone or in combination disclose or teach of the claimed spectacle lens, specifically including, as the distinguishing feature in combination with the other limitations, the claimed average transmission power continuously decreasing and increasing as claimed.

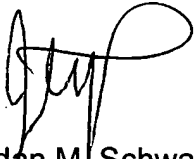
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan M. Schwartz whose telephone number is (571) 272-2337. The examiner can normally be reached on Monday to Friday (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached at (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'JMS', with a large loop at the end.

Jordan M. Schwartz
Primary Examiner
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November 24, 2004